UNITED STATES DISTRICT COURT — MAGISTRATE JUDGE'S MINUTES
SOUTHERN District of CALIFORNIA - Yuma

DATE: 4/9/2008 CASE NUMBER: 08-15607M-001-SD

CLOSED

USA vs. Jody Anne Lerma

U.S. MAGISTRATE JUDGE: JAY R. IRWIN #: 70BK

A.U.S. Attorney ______ INTERPRETER ______
LANGUAGE English

Attorney for Defendant James Metcalf (CJA)
MATERIAL WITNESS(es): 1-Juan M. Lopez-Aranda (Not Present)
MATERIAL WITNESS(es) state true name(s) to be: ______
Attorney for Material Witness(es): _

DEFENDANT: ☒ PRESENT ☐ NOT PRESENT ☒ CUSTODY

DOA 4/6/08
☐ Financial Afdvt taken
☐ Rule 5(c)(3)
☐ Initial Appearance
☐ Defendant Sworn
☐ Defendant states true name to be ___. Further proceedings ORDERED in Defendant's true name.
☒ Appointment of counsel hearing held
☐ Financial Afdvt sealed

DETENTION HEARING:	**IDENTITY HEARING:**
☐ Held ☐ Con't ☐ Submitted ☐ Reset Set for: Before: ☐ Defendant ordered temporarily detained in the custody of the United States Marshal ☐ Defendant ordered released ______ ☐ Defendant continued detained pending trial ☐ Flight risk ☐ Danger	☐ Held ☐ Con't ☐ Submitted ☐ Reset ☐ Waived Set for: Before: ☐ Warrant of removal issued.
PRELIMINARY HEARING: ☐ Held ☐ Con't ☐ Submitted ☐ Reset ☐ Waived Set for: Before: ☐ Probable cause found ☐ Dismissed ☐ Held to answer before District Court	**STATUS HEARING:** re: ______ ☒ Held ☐ Con't ☐ Reset Set for: Before:

Other: Defense counsel enters of plea of not guilty on behalf of his client. Senior Patrol Agent Chris Cantu, on behalf of the Government, orally moves to dismiss the Complaint filed against the defendant. Defense counsel has no objection. IT IS ORDERED dismissing the Complaint against the defendant without prejudice. IT IS FURTHER ORDERED releasing the material witness. Case closed.

Recorded by Courtsmart (Status: 2 Min)
BY: Jocelyn M. Arviso
Deputy Clerk

FINANCIAL AFFIDAVIT

CJA 23 (Rev. 5/98)

IN SUPPORT OF REQUEST FOR ATTORNEY, EXPERT OR OTHER COURT SERVICES WITHOUT PAYMENT OF FEE

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APR - 7 2008
CLERK U S DISTRICT COURT
DISTRICT OF ARIZONA
BY ______ DEPUTY

IN UNITED STATES ☐ MAGISTRATE ☐ DISTRICT ☐ APPEALS COURT or ☐ OTHER PANEL (Specify below)

IN THE CASE OF ______ VS. ______ FOR ______ AT ______

LOCATION NUMBER

PERSON REPRESENTED (Show your full name): Jody Anne Lerma

1 ☐ Defendant – Adult
2 ☐ Defendant – Juvenile
3 ☐ Appellant
4 ☐ Probation Violator
5 ☐ Parole Violator
6 ☐ Habeas Petitioner
7 ☐ 2255 Petitioner
8 ☐ Material Witness
9 ☐ Other (Specify) ______

DOCKET NUMBERS
Magistrate: 08-15607M-SD
District Court
Court of Appeals

CHARGE/OFFENSE (describe if applicable & check box →) ☐ Felony ☐ Misdemeanor

ANSWERS TO QUESTIONS REGARDING ABILITY TO PAY

ASSETS

EMPLOYMENT

Are you now employed? ☐ Yes ☒ No ☐ Am Self Employed

Name and address of employer: ______

IF YES, how much do you earn per month? $ ______ **IF NO**, give month and year of last employment. How much did you earn per month? $ ______

If married is your Spouse employed? ☐ Yes ☐ No
IF YES, how much does your Spouse earn per month? $ N/A
If a minor under age 21, what is your Parents or Guardian's approximate monthly income? $ ______

OTHER INCOME

Have you received within the past 12 months any income from a business, profession or other form of self-employment, or in the form of rent payments, interest, dividends, retirement or annuity payments, or other sources? ☐ Yes ☐ No

IF YES, GIVE THE AMOUNT RECEIVED & IDENTIFY $ THE SOURCES

RECEIVED	SOURCES

CASH

Have you any cash on hand or money in savings or checking account ☐ Yes ☐ No **IF YES**, state total amount $ ______

PROPERTY

Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)? ☐ Yes ☐ No

IF YES, GIVE THE VALUE AND DESCRIBE IT

VALUE	DESCRIPTION
$7,400.00	Pontiac Grand Prix 2004
1400.00	SSA
700	for child - supplement to Az SSA
204	St Az for foster child
300	HUD payment toward subsidized housing

OBLIGATIONS & DEBTS

DEPENDENTS

MARITAL STATUS: ___ SINGLE ___ MARRIED ___ WIDOWED ___ SEPARATED OR DIVORCED

Total No. of Dependents: 2

List persons you actually support and your relationship to them:
Brandy Trusky - 14
Jessica Alston - 9 (Foster child)

DEBTS & MONTHLY BILLS (LIST ALL CREDITORS, INCLUDING BANKS, LOAN COMPANIES, CHARGE ACCOUNTS, ETC.)

Creditors	Total Debt	Monthly Payt.
APARTMENT OR HOME: rent	$	$ 564.00
TK Enterprises	$ 11 900.00	$ 305
car insurance	$	$ 140.00
Medical insurance	$	$ 37.00
Food / clothing etc		

I certify under penalty of perjury that the foregoing is true and correct. Executed on (date) 4-7-08

SIGNATURE OF DEFENDANT (OR PERSON REPRESENTED) [signature]

United States District Court - Southern District California - Yuma
Order Setting Conditions of Release

DATE: April 7, 2008 **CASE NUMBER:** 08-15607M-SD

USA vs. Jody Anne Lerma

☒ PERSONAL RECOGNIZANCE
☐ AMOUNT OF BOND______
☐ UNSECURED
☒ SECURED BY__
SECURITY TO BE POSTED BY___

NEXT APPEARANCE 4/9/08 at 9:00 am before Magistrate Judge Jay R. Irwin
☐ 401 West Washington St., Phoenix, AZ, Courtroom/Hearing Room #_
☒ 325 W. 19th Street, Yuma, AZ 85364

IT IS ORDERED THAT DEFENDANT IS SUBJECT TO THE FOLLOWING CONDITIONS AND SHALL:

☒ appear at all proceedings as required and to surrender for service of any sentence imposed.

☒ not commit any federal, state or local crime.

☒ immediately advise the court, defense counsel and U.S. Attorney in writing of change in address/telephone number.

☐ maintain or actively seek verifiable employment or attend school while under Pretrial supervision, if defendant is physically or medically able, and provide proof of such to Pretrial Services.

☐ not travel outside of:______ except Defendant may travel directly to the prosecuting district, and through all states and counties in between the District of Arizona and the prosecuting district, for Court purposes and lawyer conferences only, unless express PRIOR Court permission is granted.

☐ refrain from direct or indirect contact with co-defendants, victim(s), witness(es), or family members of victim(s)/witness(es). ______

☐ report as directed to the U.S. PRETRIAL SERVICES (928) 783-1239.

☐ report as directed to the U.S. PROBATION OFFICE 602-322-7400 and abide by all terms of conditions of Supervised Release/Probation.

☐ execute an agreement to forfeit upon failing to appear as required, the bond or designated property:______

☐ Defendant is placed in the third party custody of______

☐ refrain from ☐ any ☐ excessive use of alcohol and not use or possess any narcotic or other controlled substance defined by 21 USC 802 unless prescribed for defendant by a licensed medical practitioner in the course of his/her legitimate medical practice.

☐ participate in drug/alcohol counseling/treatment and submit to drug/alcohol testing, including breathalyzer testing and make copayment toward the cost as directed by U. S. Pretrial Services.

☐ surrender any passport to the Clerk of the Court______

☐ obtain no passport.

☐ not possess or attempt to acquire any firearm, destructive device, or other dangerous weapon or ammunition.

☐ notify this Court, Defense Attorney and the Assistant U.S. Attorney if there is a change of address.

☐ shall timely pay his/her monthly child support payments as previously ordered by the subject state court in the total amount of $______

☐ The defendant shall actively participate in any mental health treatment program as directed by Pretrial Services. The defendant shall comply with all treatment requirements including taking all medication as prescribed by his/her mental health care provider.

☐ ______

ADVICE OF PENALTIES AND SANCTIONS

The commission of any offense while on pretrial release may result in an additional sentence upon conviction for such offense to a term of imprisonment of not more than ten years if the offense is a felony or a term of imprisonment of not more than one year if the offense is a misdemeanor. This sentence shall be consecutive to any other term of imprisonment.

Title 18 U.S.C. §1503 makes it a criminal offense punishable by imprisonment for life or by death, or, depending upon the specific provisions of the section not more than twenty years or by not more than ten years, and a $250,000 fine to intimidate a juror or officer of the court; Title 18 U.S.C. §1510 makes it a criminal offense punishable by up to five years imprisonment and a $250,000 fine to obstruct a criminal investigation; Title 18 U.S.C. §1512 makes it a criminal offense punishable by imprisonment for life or by death, or, depending upon the specific provisions of the section by not more than twenty years or by not more than ten years and a $250,000 fine for tampering with a witness, victim or informant; or by intentionally harassing another person and thereby hindering /delaying /preventing or dissuading any person from attending or testifying in an official proceeding or otherwise violating the section is punishable by imprisonment for not more than one year and a $250,000 fine; and 18 U.S.C. §1513 makes it a criminal offense punishable by imprisonment for life or by death, or, depending upon the specific provisions of the section not more than twenty years or by not more than ten years of imprisonment, a fine of $250,000, or both, to retaliate against a witness, victim or informant, or threaten or attempt to do so.

It is a criminal offense under 18 U.S.C. §3146, if after having been released, the defendant knowingly fails to appear as required by the conditions of release, or to surrender for the service of sentence pursuant to a court order. If the defendant was released in connection with a charge of, or while awaiting sentence, surrender for the service of a sentence, or appeal or certiorari after conviction, for:(1) an offense punishable by death, life imprisonment, or imprisonment for a term of fifteen years or more, the defendant shall be fined not more than $250,000 or imprisoned for not more than ten years, or both;(2) an offense punishable by imprisonment for a term of five years or more, the defendant shall be fined not more than $250,000 or imprisoned for not more than five years or both;(3) any other felony, the defendant shall be fined not more than $250,000 or imprisoned not more than two years, or both;(4) a misdemeanor, the defendant shall be fined not more than $100,000 or imprisoned not more than one year, or both.

A term of imprisonment imposed for failure to appear or surrender shall be consecutive to the sentence of imprisonment for any other offense. In addition, a failure to appear may result in the forfeiture of any bail posted.

If the person was released for appearance as a material witness, a fine as provided by law or imprisonment for not more than one year, or both.

ACKNOWLEDGMENT OF DEFENDANT

I acknowledge that I am the defendant in this case and that I am aware of the conditions of release. I promise to obey all conditions of release, to appear as directed, and to surrender for service of any sentence imposed. I am aware of the penalties and sanctions set forth above.

DATE 4-7-08 4/7/08	SIGNATURE OF DEFENDANT [signature]	Address: Phone

Custodian agrees to (a) supervise the defendant in accordance with all conditions of release, (b) to use every effort to assure the appearance of the defendant at all scheduled court proceedings, and to notify the court immediately in the event the defendant violates any condition of release or disappears. We, the undersigned, have read and understand the terms of this bond and conditions of release and acknowledge that we are bound by it until duly exonerated.

SIGNATURE OF CUSTODIAN(S)	ADDRESS OF CUSTODIAN(S) TELEPHONE:

Directions to United States Marshal:

☒ The defendant is ORDERED released after processing.

☐ The United States Marshal is ORDERED to keep the defendant in custody until notified by the clerk or judicial officer that the defendant has posted bond and/or complied with all other conditions of release.

DATE: April 7, 2008

United States Magistrate Judge

USM, DEFT, PTS, AFPD

UNITED STATES DISTRICT COURT **MAGISTRATE JUDGE'S MINUTES**
DISTRICT OF ARIZONA - Yuma

DATE: 4/7/08 CASE NUMBER: 08-15607M-001

USA vs. Jody Anne Lerma

U.S. MAGISTRATE JUDGE: JAY R. IRWIN #: 70BK

A.U.S. Attorney ____ INTERPRETER ____
LANGUAGE ____

Attorney for Defendant None Present
MATERIAL WITNESS(es): 1-Juan M. Lopez-Aranda (Spanish Interpreter: Ricardo Gonzalez)
MATERIAL WITNESS(es) state true name(s) to be: ____
Attorney for Material Witness(es): _

DEFENDANT: ☒ PRESENT ☐ NOT PRESENT ☒ CUSTODY

DOA 4/6/08
☒ Financial Afdvt taken
☐ Rule 5(c)(3)
☒ Initial Appearance
☐ Defendant Sworn
☐ Defendant states true name to be ___. Further proceedings ORDERED in Defendant's true name.
☒ Appointment of counsel hearing held
☐ Financial Afdvt sealed

DETENTION HEARING: ☐ Held ☐ Con't ☐ Submitted ☐ Reset Set for: Before: ☐ Defendant ordered temporarily detained in the custody of the United States Marshal ☐ Defendant ordered released ____ ☐ Defendant continued detained pending trial ☐ Flight risk ☐ Danger	**IDENTITY HEARING:** ☐ Held ☐ Con't ☐ Submitted ☐ Reset ☐ Waived Set for: Before: ☐ Warrant of removal issued.
PRELIMINARY HEARING: ☐ Held ☐ Con't ☐ Submitted ☐ Reset ☐ Waived Set for: Before: ☐ Probable cause found ☐ Dismissed ☐ Held to answer before District Court	**STATUS HEARING:** re: Plea / Sentence ☐ Held ☐ Con't ☐ Reset Set for: 4/9/08 at 9:30 am Before: Magistrate Judge Irwin

Other: Court orders defendant released on her own recognizance. Appointment of counsel hearing set for 4/9/08 at 9:30 am before Magistrate Judge Irwin. Material witness is initialed and ordered temporarily detained.

Recorded by Courtsmart
BY: Angela J. Tuohy
Deputy Clerk

AO 91 (Rev.5/85) Criminal Complaint

04/06

United States District Court

Southern ~~CENTRAL~~ DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA
V.
Jody Anne LERMA
United States Citizen

CRIMINAL COMPLAINT

CASE NUMBER: 08-15607M-SD

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief.

COUNT I

That beginning at a date unknown and continuing up to on or about April 6, 2008, in the Southern ~~Central~~ District of California, Defendant Jody Anne LERMA did engage in a conspiracy with other persons known to the United States Attorney to violate certain laws of the United States by transporting and moving, and attempting to transport and move one or more aliens Jose Lopez-Aranda and Jose Banuelos-Treto, knowing or in reckless disregard of the fact that one or more of such aliens had and would come to, enter, or remain in the United States in violation of law, in violation of Title 8, United States Code, Section 1324(a)(1)(A)(ii) and (v)(I)(Felony).

COUNT II

That on or about April 6, 2008, within the Southern ~~Central~~ District of California, Defendant Jody Anne LERMA did knowingly and willfully aid, abet, and assist the above-named persons who were in the United States in violation of law and that an offense had been committed against the United States, did receive or assist the offender(s) in order to hinder or prevent his/her/their apprehension; in violation of Title 18, United States Code, Section 3 and Title 8, United States Code, Section 1325 (Misdemeanor).

Authorized by AUSA Lynne Ingram

Continued on the attached sheet and made a part hereof. ☒ Yes ☐ No

Signature of Complainant
Chris Cantua
Senior Patrol Agent

Sworn to before me and subscribed in my presence,

April 7, 2008 at Yuma, Arizona
Date City and State

Jay R. Irwin, U.S. Magistrate
Name & Title of Judicial Officer

Signature of Judicial Officer

STATEMENT OF FACTUAL BASIS

Defendant: Jody Anne LERMA

IMMIGRATION HISTORY: The Defendant is a United States citizens.

CRIMINAL HISTORY:

DATE/LOCATION	**OFFENSE**	**DISPOSITION**
None Found		

Narrative: On April 06, 2008, Agent Landavazo, Agent Welsman, and Agent Birmingham were assigned to work the permanent Border Patrol Checkpoint (1151) located on California State Route 78 at mile marker 56.5 near Palo Verde, California. At approximately 0030 hours a burgundy 2001 Pontiac grand prix bearing temporary Arizona plate 272128S entered the primary lane of inspection at the 1151 checkpoint. Agent Birmingham was working the primary lane at the time.

When the vehicle stopped at the posted stop sign, Agent Birmingham greeted the driver (later identified as Jeri Ellen MCCOY with DOB 10/13/1958 a United States Citizen) and passenger (later identified as Jody Anne LERMA with DOB 06/08/1958 a United States Citizen) and identified himself as a U.S. Border Patrol Agent. Agent Birmingham then questioned the driver as to her citizenship. MCCOY stated she was a United States Citizen. Agent Birmingham then questioned the passenger as to her citizenship. LERMA stated she was a United States Citizen. Agent Birmingham then asked MCCOY what her destination was and she stated she was going to Blythe, California in order to take LERMA home, who claimed to live in Blythe.

While in the primary inspection lane Agent Birmingham asked MCCOY if she would allow him to look in the trunk of her vehicle. It is common for alien smugglers to try to hide illegal aliens in the trunk of vehicles. MCCOY stated "sure" and began to talk with LERMA. During the conversation between MCCOY and LERMA, Agent Birmingham over heard MCCOY tell LERMA "he wants to look in the trunk" and then MCCOY proceeded to exit the vehicle and used the vehicle key in order to open the vehicle's trunk. When MCCOY opened the trunk of the vehicle Agent Birmingham noticed two people that were lying down in the trunk trying to conceal themselves. Agent Welsman and Agent Landavazo took the two subjects (later identified as Jose BANUELOS-Treto DOB 11/09/1968 and Juan LOPEZ-Aranda DOB 03/10/1983) out of the vehicle and questioned them as to their citizenship. Both subjects stated they were citizens of Mexico. They then were asked if they had any immigration documents to be in the United States. Both subjects stated they did not have any immigration documents and that they were illegally present in the United States.

Agent Birmingham then asked MCCOY who these two subjects were and why they were hiding in the trunk of her vehicle. MCCOY stated she did not know who they were and stated that the vehicle was LERMA's. But then MCCOY stated "so that is why she had me drive her car". With this information, questioning stopped and all four subjects were placed under arrest and placed in the 1151 checkpoint holding cells.

Radio dispatch (KAK 850) was contacted and routine record checks were conducted on temporary AZ tag 272128S. The records came back as negative for both a stolen vehicle and a 72 hour southern border crossing. The vehicle was seized for 8 USC 1324 and the subjects were transported to the Blythe Border Patrol station for further processing.

Charges:	8 USC§1324	(Felony)
	18 USC§3/8 USC 1325	(Misdemeanor)

Signature of Complainant

Sworn to before me and subscribed in my presence,

April 7, 2008
Date

Signature of Judicial Officer

IN THE UNITED STATES DISTRICT COURT

FOR THE ~~CENTRAL~~ Southern DISTRICT OF CALIFORNIA

United States of America, Plaintiff, vs. (1) Jody Anne LERMA Citizen of the United States Defendant,	))))))))))))	**AFFIDAVIT** 08-15607M-SD FOR DETENTION OF MATERIAL WITNESSES LOPEZ-Aranda, Juan M. Citizens of Mexico

BEFORE Jay R. Irwin (U.S. Magistrate) 325 W. 19th Street Yuma, Arizona 85364 (Address of U. S. Magistrate)

STATE OF ARIZONA)
: ss.
CITY AND COUNTY OF YUMA)

I, Chris Cantua, being duly sworn depose and state:

(1) That I have signed the complaint in the above entitled case and have investigated it and I am familiar with the facts of the case.

(2) That on or about April 6, 2008, within the Central District of California, Defendant Jody Anne LERMA, knowing or in reckless disregard of the fact that certain alien(s), namely, LOPEZ-Aranda, Juan M, BANUELOS-Treto, Jose, had come to, entered, or remained in the United States in violation of law, did transport or move or attempt to transport or move said alien(s) in furtherance of such violation of law, in violation of Title 8, United States Code, Section 1324(a)(1)(A)(ii)(Felony).

(3) That said aliens are illegally in the United States and that therefore it is wholly impracticable if not impossible to secure their attendance before the U.S. District Court by subpoena.

(4) That the United States Attorney for the District of Arizona, or one of his assistants acting on his behalf, has requested affiant(s) to secure an order of the Magistrate to hold said person(s) as material witness(s).

WHEREFORE affiant on behalf of the government requests the Magistrate commit him/her/them to the custody of the U.S. Marshal.

Affiant

Senior Patrol Agent
Title

Subscribed and sworn to before me this
7th day of April, 2008.

United States Magistrate